



## Consumer Grievance Redressal Forum

FOR BSES YAMUNA POWER LIMITED

(Constituted under section 42 (5) of Indian Electricity Act, 2003)

Sub-Station Building BSES (YPL) Regd. Office Karkardooma,

Shahdara, Delhi-110032

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SECY/CHN 015/08NKS

**C A No. 152401102**

**Complaint No. 76/2021**

**In the matter of:**

**Pratibha Vishwas**

.....Complainant

**VERSUS**

**BSES Yamuna Power Limited**

.....Respondent

**Quorum:**

1. Mr. Arun P Singh (Chairman)
2. Mrs. Vinay Singh, Member (Legal)
3. Dr. Harshali Kaur, Member (CRM)

**Appearance:**

1. Mr. Aslam Parvez, Counsel of the complainant
2. Mr. Imran Siddiqi & Ms. Shweta Chaudhary, On behalf of BYPL

### **ORDER**

Date of Hearing: 27<sup>th</sup> August, 2021

Date of Order: 03<sup>rd</sup> September, 2021

**Order Pronounced by:- Mrs. Vinay Singh, Member (Legal)**

Briefly stated facts of the case are that the respondent transferred illegal dues to the complainant's bill.

It is also her submission that she is residing H.No. 221, 3<sup>rd</sup> floor, Back Side, J-extension, Laxmi Nagar. The respondent company has transferred dues of some other connection to her live connection vide CA No. 152401102 which is illegal and biased. Therefore, she requested the Forum to direct the respondent for removal of illegal dues amount from her electricity bill.

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*Vishwas*

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Notices were issued to both the parties to appear before Forum on 13.08.2021.

The respondent company submitted their reply submitted therein that dues were transferred on the basis of the following points:

- Sh. Jangjit Singh was the owner of the entire property bearing no. 221, J Extension, Laxmi Nagar, Delhi. The said property consists of ground plus three floors and has 15 flats with 4 flats on each floor. Also two shops on ground floor. The complainant has flat on third floor at back side.
- The said connection of the complainant was registered in the name of Mr. Alphones Comes in respect of third floor on right hand side and was energized on 18.12.2015.
- It was disconnected on 18.06.2018 on account of non-payment of dues of Rs. 62,248/- arrived after giving credit of security deposit of Rs. 1600/-. The dues were initially transferred to CA No. 151345915 in the name of Shabana Praveen.
- Shabana Praveen approached the division office on 22.03.2019 and as such on the basis of her representation and the fact that she had flat on upper ground floor whereas disconnected connection was on third floor the transferred dues were reversed back after obtaining necessary formalities.
- Thereafter site was visited on 25.04.2019 and on inspection it was found that the outstanding dues in respect of disconnected connection pertained to third floor which was now energized through CA No. 152401102 registered in the name of complainant. Therefore, on 17.05.2019 a letter of demand was issued to the complainant.
- The premises were again inspected on 03.10.2019 and on 03.10.2019 it was found that complainant was restoring electricity of portion of premises which was energized through disconnected connection. Thereafter, notice for removal of illegal extension was given to complainant.

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- Again premises were inspected on 01.11.2019, and again illegal extension was found. As such show cause notice was issued to the complainant on 12.12.2019. As there was no response dues were transferred on 30.10.2019.
- The connection having CA no. 101045709 was energized in the name of Mr. Jangjit Singh on 30.08.2007 which was disconnected on 19.02.2016 on account of non-payment of dues of Rs. 83,841/- . The site was visited on 20.01.2020 and thereafter on 12.02.2020 and it was found that entire property is reconstructed and 11 live connections are there.
- Therefore, after issuance of notices dated 17.02.2020 dues of Rs. 7,212/- were transferred proportionally to all the 11 live connections including that of complainant on 14.08.2020.

The matter was heard on 13.08.2021, when both the parties were present. Respondent filed their reply. Respondent was directed to file K.No. files CA No. 152552361, CA No. 101045709 and CA No. 152401102. Complainant was also directed to pay current dues, but the transferred dues are stayed and no disconnection of supply till final order in the case.

The matter was finally heard on 27.08.2021, when respondent filed K.No. file of Mr. Alphanso Gomes, but could not file the K.No. files of Pratibha Vishwas and Jagjit Singh, because they are not traceable. Arguments heard. Matter reserved for orders.

The main issue in the present complaint is whether the dues transferred are justified or not.

We have gone through the submissions made by both the parties. From the narration of facts and material placed before us we find as under:-

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*[Handwritten signatures and marks]*

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- In the present case Jangjit Singh was the owner of property in question from ground to top with roof rights. On 27.02.2013, he sold the property to Mohd. Arif, Director of Ruby Network Pvt. Ltd., having its registered office at 315, Arunanchal Building, 19, Barakhamba Road, Connaught Place, New Delhi-110001 and is consumer of BYPL residing at Laxmi Nagar as his voter card is attached with Alphanso Gomes K.No. file with NOC for granting connection to Alphanso Gomes. At the time of sale deed a connection in the name of Mr. Jangjit Singh having CA No. 101045709 was existing at the said premises. Also as per record, at the time of sale of the said property there were no dues pending against the connection of Jangjit Singh. In 2014, pending bill against the connection of Jangjit Singh was amounting to Rs. 3080/-, out of which Rs.720/- was paid by Mohd. Arif in 2014 and thereafter upon disconnection on 19.02.2016 the total amount due against connection of Jangjit Singh were Rs. 83,841.85/-. It is clear that the entire dues pertain to the period between 2014 to 2016 when the property was in possession of Mohd. Arif.
- But here the dispute is of third floor right side House no. 221, Laxmi Nagar Extension. Respondent released the connection of Alphanso Gomes in 2015 on the NOC of Mohd. Arif, who purchased this property by way of sale deed. The NOC of Mohd. Arif does not indicate the status of Alphanso Gomes whether he was tenant or owner of the property. The connection of Alphanso Gomes having CA No. 151552361 got disconnected in 2018 on account of pending dues of Rs. 62,216/-. Alphanso Gomes made part payments and thereafter no payments till the disconnection in the year 2018.
- On 25.04.2019, respondent inspected the premises of Alphanso Gomes and find that Alphanso Gomes is using the electricity from the connection of complainant CA No. 152401102. But respondent failed to produce any document or evidence in respect that Alphanso Gomes is using the electricity from complainant.



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As per DERC Guidelines, Section 52 (3) narrated below:

52. Prevention from Unauthorized Reconnection:- (3) In case the consumer indulges in unauthorized reconnection from the supply of any other consumer, the Licensee may initiate action as per provisions of unauthorized use of electricity against such consumer who has provided the supply:

Provided that the pending dues of disconnected connection shall be transferred to the account of consumer allowing such connection.

- It seems that respondent failed to take action in the year 2019 (when first site visit was done) against the complainant and Alphanso Gomes who is using the electricity. Respondent transferred the dues to the complainant only in a simple manner without taking any action.
- The site was visited on 20.01.2020 and again on 12.02.2020, when it was found by the respondent that the entire property is newly constructed and have 11 (eleven) live connections. Respondent issued notices to all the 11 connection holders on 17.02.2020 and the dues of Jangjit Singh were transferred on pro-rata basis to all the 11 connections existing at the said premises. Respondent seems to be negligent on transferring the dues of Jangjit Singh (who sold the property to Mohd. Arif in 2013) to 11 live connections which seems to be unjustified and illogical because respondent kept silence for four years after the disconnection of connection in the name of Jangjit Singh in 2016 on non-payment of dues of Rs. 83841.85/- . No dues were pending at the time when the property was sold by Mr. Jangjit Singh but after the sale deed in 2013 when Mohd. Arif became the owner of the property and reconstructed the building the dues accumulated.

Here, the complainant made complaint against the dues of Alphanso Gomes and Jangjit Singh transferred to her live connection.

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The energy dues cannot be waived off and are always recoverable, as by the Hon'ble Courts have decided as beneath:

Also, as held by Hon'ble High Court of Delhi in Izhar Ahmad & Anr has stated "the intent of such a Regulation is to ensure that electricity companies do not have to 'run around' to recover their dues and any person who applies for re-connection makes payment of fraudulent abstraction charges before grant of new connection or reconnection of the said premises."

In BSES Rajdhani Power Limited Vs Saurashtra Color Tones Pvt. Ltd. & ors., 2006, Delhi Law Times page no. 213, stated as under:

Electricity is public property. Law in its majesty benignly protects public property and behoves everyone to respect public property. No doubt dishonest consumers cannot be allowed to play truant with the public property but inadequacy of the law can hardly be a substitute for overzealousness.

But in the present case the dues transferred of Alphanso Gomes and Jangjit Singh to the complainant does not seem logical or justified. Respondent failed to file any document/report/evidence in respect of the inspection and has not taken action as per Section 52 (3), neither booked for unauthorized use of electricity nor transfer the dues as per the provision of 52 (3).

The respondent has every right to recover the dues as per the legal provisions laid below and respondent can file recovery suit against Alphanso Gomes CA No. 151552361 and Mohd. Arif for dues against connection of Jangjit Singh having CA No. 101045709. The dues transferred on the CA number of complainant 152401102 are unjustified. But as per the provision of **Section 42 (4) of DERC Guidelines 2017**, narrated below:

**42. Recovery of Arrears:- (4) if the consumer fails to remit the amount of arrears with interest or Late Payment Surcharge, as the case may be, by the due date indicated in the bill or in the demand notice, the Licensee may**

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disconnect the supply of electricity after giving notice and initiate proceedings for the recovery of the arrears in accordance with the relevant legal provisions.

We are of considered opinion that respondent is directed

- To withdraw the transferred dues (Rs. 62216/- against connection of Alphanso Gomes + Rs. 7212/- against connection of Jangjit Singh) from the complainant's connection having CA No. 152401102, because the dues transfer is unjustified and illogical as per the provisions of 52 (3).
- Respondent is free to recover the transferred dues of Alphanso Gomes as per the provision of Section 42 (4) by filing a recovery suit against Alphanso Gomes because he is staying in the same premises and in the area/jurisdiction of the respondent.
- Respondent is also directed to recover the dues of Jangjit Singh amounting to Rs. 83841.85/- from Mohd, Arif who is staying in same area/jurisdiction and is consumer of BYPL.
- Respondent is directed to be more vigilant and careful in future at the time of transferring the dues or recovering the dues from other consumers.

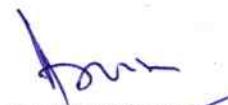
The case is disposed off as above.

No order as to the cost. A copy of this order be sent to both the parties and file be consigned to record room thereafter.

The order is issued under the seal of CGRF.

  
(HARSHALI KAUR)  
MEMBER (CRM)

  
(VINAY SINGH)  
MEMBER (LAW)

  
(ARUN P SINGH)  
CHAIRMAN